

REMARKS

The Office examined claims 1-21 and rejected 1-14 and 16-21. With this paper, various of the claims are amended to more distinctly claim the invention. In addition, claims 4-8 are canceled and corresponding system claims 22-26 are added. Also, claims 18-21 are canceled. Finally, new claim 27 is added. Thus claims 1-3, 9-17, and 22-27 are now pending in the application, of which only claims 1, 14, and 27 are independent.

Rejections under 35 USC §112, second paragraph

At section 13 of the Office Action, claims 1-13, 18 and 21 are rejected under 35 USC §112, second paragraph.

With this paper, claim 1, 3, 8 and 9 are each changed in ways believed sufficient to overcome their rejections. Claims 18 and 21 are canceled.

Since the rejections of the other claims so rejected are by virtue purely of their dependencies from the claims amended here, applicant respectfully requests that all rejections under 35 USC §112, second paragraph be withdrawn in view of the amendments made here.

Rejections under 35 USC §102

At section 2 of the Office action, claims 1, 4, 14 and 16-20 are rejected under 35 USC §102 as being anticipated by Yanagihara et al. (U.S. Pub. 2003/0152032).

As amended by this paper, claim 1 recites a method of operation of a telecommunication device, comprising: transmitting segments at a rate of transmission over a communication path to a receiver telecommunication device and increasing the rate of transmission starting from a first starting point for the rate of transmission, based on feedback received from the receiver

telecommunication device; receiving a message including one or more bits set to convey an indication of low congestion; and in response to the indication of low congestion, performing an accelerated start so as to reach maximum throughput in less time by changing to a second starting point greater than the first starting point and greater than the current rate of transmission, and increasing the rate of transmission starting from the second starting point.

Applicant has argued that Yanagihara fails to disclose a sender receiving as feedback one or more bits set to indicate low congestion. In response to applicant's assertions in this regard, the Office continues to assert:

Yanaigihara teaches one or more bits (bits in RR in Figure 5) set to convey an indication of congestion (last sentence of Abstract, [0067]). Those bits are also an indication of low congestion ("congestion is extremely slight" in [0096]). There, the examiner contends the one or more bits in RR conveys the indication of congestion.

Applicant has insisted that the cited text in Yanagihara makes it plain to see that in Yanagihara congestion is determined based on packet loss rate and jitter information in a RR (receiver report) packet provided by a receiver side. There is no "setting" of bits as in the invention as claimed, but only information from which it can be determined, using various threshold values, whether congestion is high or low. The difference is clear: in the invention, there is a bit or bits whose values, by themselves, indicate low congestion. In Yanagihara, there is information that is of use in determining the congestion level, but only when compared to threshold values not included in the RR. The Office has nonetheless insisted that the receiver report is encompassed by the recitation of "receiving as feedback one or more bits set to indicate low congestion." Applicant thus believes now that the recited language does encompass the receiver report, and that the recited language is therefore to be

understood broadly, and thus not encompassing merely what are sometimes termed flag bits or special bits predetermined to convey the presence or absence of some attribute.

In consequence of the Office insisting that the recited claim language is to be understood broadly, applicant has here amended claim 1 to distinguish from Yanagihara. The accelerated start provided by the invention is now more clearly recited. Specifically, claim 1 now recites: performing an accelerated start so as to reach maximum throughput in less time by changing to a second starting point for the rate of transmission greater than a first starting point and greater than the current rate of transmission, and then increasing the rate of transmission starting from the second starting point. Applicant respectfully submits that Yanagihara nowhere teaches or suggests such an accelerated start, aimed at decreasing the time to reach maximum throughput, as indicated in Figs. 3 and 4. For support for the changes to the independent claims, see the paragraph beginning at page 14, line 9.

The same argumentation applies to claim 14.

Accordingly, applicant respectfully requests that all the rejections under 35 USC §102 be withdrawn.

Rejections under 35 USC §103

At section 4 of the Office action, claims 2 and 5-8 are rejected under 35 USC §103 as being unpatentable over Yanagihara.

Claims 5-8 are here canceled. At least because the claims from which these depend are believed allowable for the reasons given above, applicant respectfully requests that the rejections under 35 USC §103 be withdrawn.

New claims

New claims 22-26, reciting limitations originally recited in claims 4-8, depend from claim 14, and are believed allowable at least for the reasons given for claim 14.

New claim 27 recites limitations corresponding to those of claim 14, and is believed allowable for the same reasons as claim 14.

Conclusion

For all the foregoing reasons it is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited. Applicant's attorney urges the Examiner to call to discuss the present response if anything in the present response is unclear or unpersuasive.

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Date

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